

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2192.05
COMPLAINT INVESTIGATOR:	Joe Bear
DATE OF COMPLAINT:	November 3, 2004
DATE OF REPORT:	December 2, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	February 18, 2005

**COMPLAINT ISSUES:**

Whether the Carmel Clay Schools and the Hamilton-Boone-Madison Special Services Cooperative violated:

511 IAC 7-25-4(b) by failing to conduct the initial educational evaluation and convene the case conference committee (CCC) within 60 instructional days of the date written parental consent was received by certified personnel;

511 IAC 7-25-4(f) by failing to administer tests and evaluation materials as may be needed to produce the data needed for the CCC to make the determinations required by 511 IAC 7-25-4(d), specifically by failing to conduct a functional behavioral assessment;

511 IAC 7-27-3 by failing to ensure that all required participants were present for the CCC meeting on June 8, 2004; and

511 IAC 7-27-4(a)(3) by failing to convene the CCC upon request of a parent, specifically by failing to reschedule the CCC meeting that was scheduled for, but not held on, October 20, 2004.

**FINDINGS OF FACT:**

1. The Student has been formally referred for an educational evaluation to determine the nature and extent of a suspected disability, but has not yet been determined eligible for special education and related services.
2. The School received the Complainant's request for an initial educational evaluation on a non-instructional day prior to first day of the 2003-2004 school year. The school year began on August 19, 2003, and the case conference committee (CCC) convened on December 11, 2003. The School acknowledges its failure to evaluate the Student and convene the CCC within 60 instructional days of the request for an initial evaluation. The sixtieth instructional day was November 13, 2003.
3. The School's evaluation included all of the requirements for learning disability and emotional disability: an individualized, standardized, multifactored test of learning disability; an assessment of educational needs; an observation of the Student in the general education classroom by a team member other than the Student's general education teacher; educationally relevant medical information; a social and developmental history; a written report of the results of the evaluation; and a behavioral/emotional evaluation. The Complainant's letter requested an evaluation for learning disabilities. When completing the Referral Form, the Complainant added suspected

emotional disability and noted the Student's organizational problems and difficulty with pragmatic language and following directions.

4. At the December 11, 2003, CCC meeting, the Student was determined not to be eligible for special education services. The Complainant requested a functional behavioral assessment (FBA) on the same day. On December 15, 2003, the Director provided a written denial of the request for an FBA, explaining that an FBA is required by Article 7 only in the circumstances described in 511 IAC 7-29-5. The School acknowledges that an FBA was not completed.
5. On June 8, 2004, the CCC reconvened to discuss an independent evaluation and observations from the behavior specialist. In addition to the Complainant, the participants at the June 8, 2004, CCC meeting included a public agency representative, a teacher licensed in the areas of the Student's suspected disability, a general education teacher, an independent evaluator, and a professional development specialist, among others. The School Counselor was the designated school representative at the June 8, 2004, CCC meeting.
6. At the June 8, 2004, CCC meeting, the CCC decided to reconvene in the fall. A meeting was set for October 20, 2004, but the meeting was canceled by the School. The first contact about rescheduling the meeting was made on October 28, 2004, but a new meeting time was not offered to the Complainant until November 5, 2004, two days after the filing of the complaint.

#### **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that the School conducted a timely and complete initial evaluation, but failed to convene the CCC within 60 instructional days of the date written parental consent was received by certified personnel. Therefore, a violation of 511 IAC 7-25-4(b) is found.
2. Findings of Fact #3 and #4 indicate that the School did not fail to administer tests and evaluation materials that were needed to produce the data identified in 511 IAC 7-25-4(d). An FBA is not required by 511 IAC 7-26. Therefore, a violation of 511 IAC 7-25-4(f) is not found.
3. Finding of Fact #5 indicates that the School ensured the participation of the required participants at the June 8, 2004, CCC meeting. Therefore, a violation of 511 IAC 7-27-3 is not found.
4. Finding of Fact #6 indicates that the School failed to convene the CCC upon the request of a parent, specifically by failing to reschedule, in a timely manner, the CCC meeting that was scheduled for, but not held on, October 20, 2004. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.

**The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.**

#### **CORRECTIVE ACTION:**

Carmel Clay Schools and the Hamilton-Boone-Madison Special Services Cooperative shall:

1. Provide a letter of assurance that, in the future, the School will complete an initial educational evaluation and convene the CCC within 60 instructional days of the date written parental consent is received by certified personnel.

Documentation of compliance (consisting of the letter of assurance) shall be submitted to the Department of Education, Division of Exceptional Learners, by January 21, 2005.

2. Reconvene the CCC by January 14, 2005.

Documentation of compliance (consisting of the CCC Report) shall be submitted to the Division by January 21, 2005.